

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

UNITED STATES OF AMERICA

V.

JEFFREY CLAYTON

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5:03-CR-21(2)

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On October 18, 2007, the Court held a hearing on the Government's Petition to Revoke Supervised Release. The Government was represented by Assistant United States Attorney Denise Simpson. Defendant was represented by John Stroud.

Defendant was sentenced on December 29, 2003, before The Honorable David Folsom of the Eastern District of Texas after pleading guilty to the offense of Felon in Possession of a Firearm. This offense carried a statutory maximum imprisonment term of ten years. The guideline imprisonment range, based on a total offense level of 17 and a criminal history category of III, was 30 to 37 months. Defendant was subsequently sentenced to 30 months imprisonment followed by a three years of supervised release subject to the standard conditions of release, plus special conditions to include drug testing and aftercare treatment. On September 19, 2005, Defendant completed his period of imprisonment and began service of the supervision term.

On September 24, 2007, the instant petition to revoke was filed. In its petition, the Government alleges Defendant violated the following conditions:

1) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to

such substances, except as prescribed by a physician. Specifically, the Government alleges as follows. On May 11, 2007, Defendant submitted a urine sample which tested positive for methamphetamine.

The Court scheduled a revocation hearing October 18, 2007. At the hearing on the Government's petition and after consenting to the undersigned's taking the plea, Defendant pled true to allegation as set forth above. Based upon the Defendant's plea of true to the allegation and with no objection by the Defendant or the Government, the Court found Defendant violated his conditions of supervised release as alleged in the U.S. Probation Office's violation petition. The Court thereafter recommended Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, to run concurrently to the term of imprisonment Defendant is serving on a state parole violation arising from his conviction in the Bowie County District Court Cause No. 95-F-436-202, with no term of supervised release to follow such term of imprisonment. Based on the foregoing, it is

RECOMMENDED that Defendant's plea of true to the allegation as set forth in the Government's petition be **ACCEPTED**. Further, it is

RECOMMENDED that Defendant's supervised release be **REVOKED**. Further, it is

RECOMMENDED that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, to run concurrently to the term of imprisonment Defendant is serving on a state parole violation arising from his conviction in the Bowie County District Court Cause No. 95-F-436-202, with no term of supervised release to follow such term of imprisonment.

The parties were informed of the right to file objections to the recommendations as set forth

above. The parties waived their objections.

Defendant was also advised that he has the right to be present with counsel, to speak in his own behalf, and to have counsel speak in his behalf before any additional sentence is imposed. Defendant signed a written waiver of his right to be present and speak, and his right to have counsel present and speak, before the district judge imposes the recommended sentence.

SIGNED this 18th day of October, 2007.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE